



UNITED STATES PATENT AND TRADEMARK OFFICE

ST

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,601	05/01/2001	Alfred S. Lewin	36689.140	7183
27683	7590	01/23/2006	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			CHONG, KIMBERLY	
			ART UNIT	PAPER NUMBER

1635

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION***Notice of Non-responsive Amendment***

The reply filed on 11/09/2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant has not elected a sequence as required in the Restriction Requirement of record filed 09/09/2005. Specifically, the Restriction Election required Applicant to elect one (1) target mRNA sequence and one (1) ribozyme targeted to a specific mRNA, which is *not* a species election. Applicants have instead elected two (2) target mRNA sequences and two (2) ribozyme sequences for examination.

Contrary to Applicant's arguments, further restriction is not required simply because of "incorrect Markush language" as stated by Applicant on page 13 in the reply filed 11/09/2005. Claim 4, for example, recites "a sequence selected from *the group consisting of*", which is proper Markush language. See MPEP 2173.05(h). As stated in the previous Restriction Requirement, the claims are not considered to be a proper genus/Markush since the sequences are structurally and functionally independent and distinct because each has a unique nucleotide sequence and each sequence does not share a common structure and search of more than one mRNA target sequence and more than one ribozyme targeted to the mRNA presents and undue burden the Patent and Trademark Office due to the complex nature of the search and corresponding examination.

Therefore, the reply is not fully responsive to the prior action filed 09/09/2005 because Applicant did not elect one (1) target mRNA sequence and one (1) ribozyme sequence. See 37 C.F.R. 1.111.

Art Unit: 1635

Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Conclusion

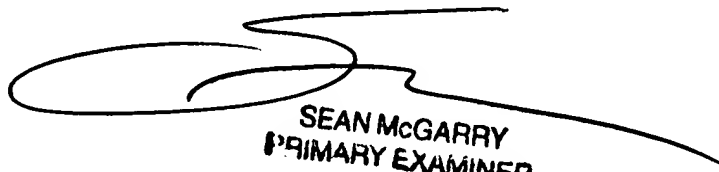
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Chong whose telephone number is 571-272-3111. The examiner can normally be reached Monday thru Friday between 7-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached at 571-272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Kimberly Chong
Examiner
Art Unit 1635


SEAN MCGARRY
PRIMARY EXAMINER
/635